IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.03.2022

CORAM :

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

WRIT PETITION NO.6580 OF 2022
AND
W.M.P.NOS.6684 & 6685 OF 2022

M/s.Blue Diamond Leders,
Represented by its Partner,
Mrs.Bhavani Kumaresapandian ... Petitioner

-Vs-

The Assistant Commissioner of Income Tax,
Central Circle-2(3), Chennai,
1st Floor, Investigation Building,
No.46, (Old No.108),
Mahatma Gandhi Road,
Nungambakkam,
Chennai - 600 034. ... Respondent

PRAYER:- Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari calling for the impugned notice dated 29.03.2021 issued under Section u/s.148 dated 29.03.2021 for Asst. Year 2015-16 having DIN & Notice No.ITBA/AST/S/148/2020-21/1031882194(1) by the respondent and the consequential order dated 26.02.2022 having DIN & Letter No.ITBA/AST/F/17/2021-22/1040145545(1) for Asst. Year 2015-2016 issued by the respondent and quash the same.

For Petitioner : Mr.K.Ravi

For Respondent : Mr.A.N.R.Jaya Pratap
Junior Standing Counsel

O R D E R

The prayer sought for herein is for a Writ of Certiorari calling for the impugned notice dated 29.03.2021 issued under Section u/s.148 dated 29.03.2021 for Asst. Year 2015-16 having DIN & Notice No.ITBA/AST/S/148/2020-21/1031882194(1) by the respondent and the consequential order dated 26.02.2022 having

DIN & Letter No.ITBA/AST/F/17/2021-22/1040145545(1) for Asst. Year 2015-16 issued by the respondent and quash the same.

2. In respect of Assessment Year 2015-16, in order to reopen the assessment under Section 147 of the Income Tax Act, 1961 (In short 'the Act'), notice under Section 148 was issued on 29.03.2021, pursuant to which the petitioner assessee filed a return and asked for reasons for reopening the assessment under Section 147.

3. Thereafter, the reasons were given and after receipt of the objections raised in this regard by the petitioner assessee with regard to the reasons given for reopening under Section 147, the respondent Revenue, having accepted the return filed by the petitioner assessee, passed an order of assessment dated 07.02.2022. Therefore, virtually the prayer sought for in this writ petition challenging the reopening of assessment has become infructuous.

4. However, the learned counsel for the petitioner pointed out that, though the return filed by the petitioner was accepted and an order of assessment was passed, subsequently there will be a proceedings under Section 263 of the Income Tax Act, by the Principal Commissioner in case the assessment order is erroneous and prejudicial to the interest of the Revenue and if any such proceedings is initiated in future by the Principal Commissioner, unmindful of the assessment order, the chance of the petitioner to revive the challenge to this assessment order as well as the consequential proceedings, if any, to be initiated under Section 263, shall be protected.

5. I have heard the learned Standing Counsel for the Revenue, who would submit that, merely because this assessment order by the Assessing Officer under Section 147 has been passed or issued accepting the return submitted by the assessee, that would not preclude the Principal Commissioner from exercising his power under Section 263 of the Act. Therefore, no such proceedings of caveat can be accepted to be undertaken at this moment from this Court by the petitioner assessee and therefore he opposes the said move which is sought to be achieved by the petitioner assessee in this writ petition.

6. Having considered the said submissions made by the learned counsel for the parties, this Court is inclined to dispose of this writ petition with the following order.

7. In view of the aforesaid, where reassessment order on 07.02.2022 is passed accepting the return submitted by the petitioner, the challenge made in this writ petition has become infructuous. Accordingly, this writ petition is liable to be

dismissed and it is accordingly dismissed. However, it is open to the petitioner to challenge any consequential proceedings or further proceedings, which includes a proceedings to be initiated, if any, under Section 263 of the Act by the Principal Commissioner in the manner known to law if any lawful ground is available to the petitioner assessee.

8. With these observations, this writ petition stands dismissed. No costs. Consequently, connected miscellaneous petitions are also dismissed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

ANU/KST

To

The Assistant Commissioner of Income Tax,
Central Circle-2(3), Chennai,
1st Floor, Investigation Building,
No.46, (Old No.108),
Mahatma Gandhi Road,
Nungambakkam,
Chennai - 600 034.

+1cc to Mr.K.Ravi, Advocate, S.R.No.20191
+1cc to Mr.A.P.Srinivas, Advocate, S.R.No.19575

W.P.NO.6580 OF 2022 AND
W.M.P.NOS.6684 & 6685 OF 2022

SV(CO)
PBS/04/04/2022